

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JOHN C. VOTTA, JR.
Plaintiff,

v.

MARTHA COAKLEY,
Defendant.

CA. No. 04-10135-GAO

**DISTRICT ATTORNEY COAKLEY'S MOTION
TO DISMISS AMENDED COMPLAINT**

Defendant Martha Coakley, Middlesex District Attorney, moves that Plaintiff's Amended Complaint, Paper No. 7, Attachment 1, be dismissed pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6). The Amended Complaint seeks monetary and injunctive relief under 42 U.S.C. § 1983, from what Plaintiff claims is a "bad faith prosecution." Amend. Comp. at ¶ 5. As fully detailed in the accompanying memorandum of law and in District Attorney Coakley's first memorandum of law (Paper No. 6), such relief is unambiguously barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), as well as by the doctrines of absolute prosecutorial immunity and qualified immunity. Moreover, plaintiff has neither alleged any personal conduct by District Attorney Coakley sufficient to support liability under § 1983, nor made sufficient allegations to demonstrate that he has standing to demand an injunction against her in her official capacity. Each of these deficiencies is sufficient to require dismissal of the Amended Complaint.

For these reasons and those detailed in her memoranda of law, District Attorney Coakley respectfully requests that this action be dismissed with prejudice.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

/s/ David M. Lieber

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Dated: April 7, 2004

ATTORNEYS FOR
DISTRICT ATTORNEY COAKLEY